

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DLJ MORTGAGE CAPITAL, INC., and :  
CREDIT SUISSE FIRST BOSTON :  
MORTGAGE CAPITAL, LLC, :

Plaintiffs, :

-against- :

ACT LENDING CORPORATION d/b/a :  
AMERICAN CAPITAL MORTGAGE :  
SERVICES, and AMERICAN CAPITAL :  
TRUST, :

Defendants. :

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**JOHN F. KEENAN, United States District Judge:**

**MEMORANDUM OPINION**

**AND ORDER**

07 Civ. 10318 (JFK)

On March 31, 2008, the Court entered a default judgment in favor of Plaintiffs DLJ Mortgage Capital, Inc., ("DLJMC") and Credit Suisse First Boston Mortgage Capital, LLC, ("CSFBMC") against Defendants ACT Lending Corporation ("ACT Lending") and American Capital Trust ("American Capital"). The Court subsequently referred the matter to Magistrate Judge Theodore H. Katz for an inquest on damages. Magistrate Judge Katz issued a thorough and comprehensive Report and Recommendation, dated December 1, 2008, recommending that a judgment "be entered (1) against Defendant ACT Lending and in favor of Plaintiff CSFBMC in the amount of \$881,327.22, plus prejudgment interest according to the contractual rate (\$210.513 per diem) from November 14, 2008, through entry of judgment; and (2) against Defendants ACT Lending and

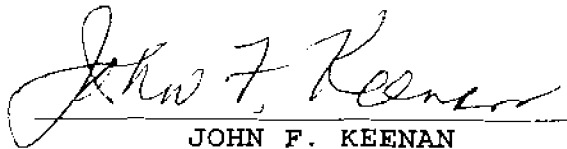
[American Capital]], jointly and severally, and in favor of DLJMC, in the amount of \$41,520,549.35, for the Early Payment Default Loans, plus prejudgment interest according to the contractual rate (\$7,878.24 per diem) from November 14, 2008, through entry of judgment; and against Defendants Act Lending and [American Capital], jointly and severally, and in favor of DLJMC, in the amount of \$61,585.16 for [Purchase Price Protection]. In addition, Defendants should be held jointly and severally liable for Plaintiffs' attorney's fees, in the amount of \$17,650.00, and costs in the amount of \$2,744.81."

As indicated by Magistrate Judge Katz in his Report, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72 of the Federal Rules of Civil Procedure, the parties had ten days in which to file objections. None were filed.

Finding no clear error on the face of the record, the Court adopts the Report in its entirety. See Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The Clerk of the Court is hereby directed to calculate the interest and remove this case from the Court's docket.

SO ORDERED.

Dated: New York, New York  
January 14, 2009

  
JOHN F. KEENAN  
United States District Judge